

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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THE TRUSTEES OF THE NEW YORK STATE  
NURSES ASSOCIATION PENSION PLAN,

Petitioners,

-against-

21-cv-8330 (LAK)

WHITE OAK GLOBAL ADVISORS LLC,

Respondent.  
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### ORDER ON PETITIONERS' CONTEMPT MOTION

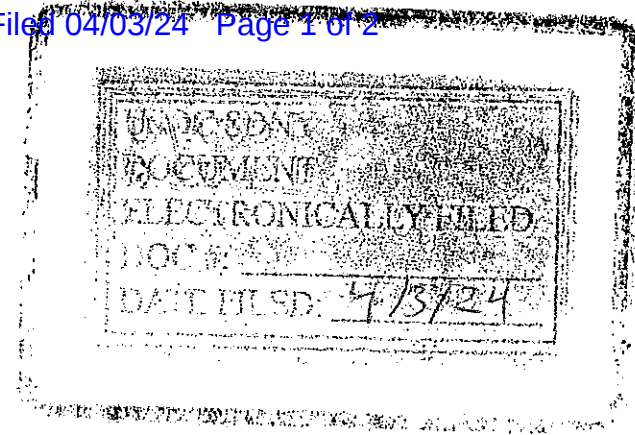
LEWIS A. KAPLAN, *District Judge.*

In a thorough and careful report and recommendation dated February 22, 2024 ("the R&R"), Magistrate Judge Robert W. Lehrburger recommended that the Court grant in substantial part petitioners' motion for an order adjudging respondent to be in civil contempt of this Court. (Dkt 150) Respondent has objected, principally on the asserted grounds that the judgment of which it allegedly is in contempt was not clear and unambiguous and, in any case, that respondent complied with that judgment. (Dkt 151)

As the petitioners' response to respondent's objections, not to mention the R&R and prior rulings of the Court, makes abundantly clear, respondent's objections are but its latest attempt to pour the "old wine" of previously rejected arguments into a new bottle and call it "new wine." Their objections are entirely without merit and are overruled. Accordingly, it is hereby

ORDERED, that petitioners' motion (Dkt 138) is granted to the following extent:

1. Respondent is adjudged to be in civil contempt of the Judgment for failing to disgorge the full amount owed;
2. Respondent shall disgorge to petitioners, within seven days of the entry of this order, the sum of \$348,122.50 plus post-judgment interest at the rate of 9 percent per annum on the remaining unpaid balance running from March 17, 2022 until the entire sum has been paid;
3. Respondent shall pay to petitioners their attorney's fees and costs incurred in connection with enforcing the Judgment's disgorgement requirement in amount to be determined by further proceedings; and



4. In the event respondent fails to comply in all respects with paragraph 2 hereof within seven days of the date of entry of this order, respondent shall pay to petitioners a daily fine for each day thereafter that there remains any unpaid balance of principal or interest. That daily fine shall start at \$5,000 per day and double every seven days until the full amount owed is paid.

While it is unnecessary to this decision, the Court wishes to make clear that it would reach this result on the basis of the point made at the bottom of page 12 and the top of page 13 of the R&R – i.e., “The Judgment is clear and unambiguous. By its terms, ‘net asset value’ or ‘NAV’ refers to the *value* of assets” – without regard to the further points made in the R&R thereafter, though it agrees with those points as well.

SO ORDERED.

Dated: April 3, 2024

A handwritten signature in black ink, appearing to read "Lewis A. Kaplan", is written over a horizontal line.

Lewis A. Kaplan  
United States District Judge